

6/10/92 (Educational)

ORDINANCE NO. 92-24

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, AMENDING ST. JOHNS COUNTY ORDINANCE 87-60 AS PREVIOUSLY AMENDED, (THE ST. JOHNS COUNTY EDUCATIONAL FACILITIES IMPACT FEE ORDINANCE). THIS AMENDMENT MAKES FINDINGS, PROVIDES DEFINITIONS AND PROVIDES PROCEDURES WHEREBY UNDER CERTAIN CIRCUMSTANCES THE ST. JOHNS COUNTY EDUCATIONAL FACILITIES IMPACT FEE MAY BE PAID OVER TIME FOR OWNER OCCUPIED SINGLE UNIT RESIDENCES THAT WILL BE OCCUPIED BY VERY LOW OR LOW UNADJUSTED GROSS INCOME RESIDENTS; AND IT PROVIDES AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

Section 1. St. Johns County, Florida Ordinance No. 87-60, as previously amended, (the Educational Facilities Impact Fee Ordinance) is hereby amended by adding the following ARTICLE I thereto:

ARTICLE I

Section A. Definitions. As used in this Article, unless the context otherwise indicates:

(1) "Adjusted For Family Size" means adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, than the base income eligibility determined as provided in subsection (3) or subsection (5), based upon a formula as established by the United States Department of Housing and Urban Development.

(2) "Adjusted Gross Income" means all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, Adjusted For Family Size.

(3) "Low-Income Residents" means one or more natural persons or a family that will occupy the subject residence or mobile home, the total annual household unadjusted gross income of which does not exceed 80 percent of the median annual Adjusted Gross Income for households within the state, or 80 percent of the median annual Adjusted Gross Income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within St. Johns County, whichever is greater.

(4) "Student" means any person not living with his or her parent or guardian who is eligible to be claimed by his or her parent or guardian as a dependent under the Federal Income Tax Code and who is enrolled on at least a half-time basis in a secondary school, vocational-technical center, community college, college, or university.

(5) "Very Low-Income Residents" means one or more natural persons or a family, not including Students, that will occupy the subject residence or mobile home, the total annual household unadjusted gross income of which does not exceed 50 percent of the median annual Adjusted Gross Income for households within the state, or 50 percent of the median

annual Adjusted Gross Income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within St. Johns County, whichever is greater.

Section B. Findings. The Board of County Commissioners of St. Johns County, Florida finds, determines and declares as follows:

(1) Decent, safe and sanitary housing for Very Low Income and Low Income Residents are a critical need in St. Johns County, Florida.

(2) New and rehabilitated housing must be provided at a cost affordable to such persons in order to alleviate this critical need.

(3) The private-sector housing construction industry primarily produces housing units for middle-income and upper-income households and often has limited experience in housing development which provides quality housing for Very Low-Income and Low-Income Residents.

(4) Among other things, the high cost of project financing tends to restrict the development of housing affordable to Very Low-Income and Low-Income Residents.

(5) For these reasons, private capital and existing state housing programs do not provide an adequate remedy to this situation.

(6) Special programs are needed to stimulate private enterprise to build and rehabilitate housing in order to help provide housing for Very Low-Income and Low-Income Residents as a matter of public purpose.

(7) The Florida Legislature through the enactment of Florida Statutes, Chapter 420 [The Florida Housing Act], Florida Statutes Chapter 159, Part IV [The Florida Housing Finance Authority Act], Florida Statutes, Section 187.201(5)(b)(3) [The State Comprehensive Plan], and Florida Statutes §163.3177(6)(f)(4) [The Local Government Comprehensive Planning and Land Development Regulation Act] has sought to encourage the provision of incentives for the construction of affordable housing and housing for Very Low-Income and Low-Income Residents; and

(8) The Housing Element of the St. Johns County Comprehensive Plan (1990-2005) encourages the County to consider ways to help encourage affordable housing.

(9) Florida Attorney General opinion 90-16 opines that the payment of impact fees in several payments with interest added does not violate the Florida Constitution.

(10) Florida Statute §125.01(1)(j) specifically authorizes the Board of County Commissioners to establish and administer housing programs and Florida Statute §420.604(1)(C)(1) and (3) encourage Counties to increase the supply of safe, affordable, and sanitary housing for Very Low-Income Residents and Low-Income Residents by reducing impact fees and offering low cost financing.

Section C. Payment Of Impact Fee Over Time.

When the Feepayer (as previously defined in the Educational Facilities Impact Fee Ordinance) of an owner occupied single unit residential improvement for which a building permit or a permit

for mobile home installation is applied for can demonstrate to the Board of County Commissioners of St. Johns County, Florida (the "Board") or its designee(s) that such residential improvement will be continuously occupied by only Very-Low Income Residents and/or Low-Income Residents for the next 12 consecutive months immediately following issuance of the certificate of occupancy or move on permit for such residential improvement, whichever is applicable, then, at the option of the Feepayer, seventy percent (70%)(the deferred portion) of the Educational Facilities Impact Fee that is due may be paid over time for a period not to exceed 12 months. The undeferred portion (30%)(the "initial portion") of said impact fee shall be paid at the time and in the manner otherwise required by the Educational Facilities Impact Fee Ordinance for payment of the Educational Facilities Impact Fee. The deferred portion of such impact fee shall be paid and provided for at the same time as the initial portion but in the manner hereinafter provided. Interest shall be paid on the unpaid balance of the deferred portion of the impact fee at the rate of 5% per annum. Simultaneously with the payment of such initial portion of the impact fee, the owner of the land upon which the residential improvement or mobile home is located or will be located shall execute and deliver a promissory note and mortgage, and deliver a title opinion or policy, to the County in form and substance satisfactory to the Clerk of Courts of St. Johns County dated the date that the payment of the initial portion of the impact fee is due. The promissory note shall provide for payment of the amount of the deferred portion of the impact fee (the "principal")

and the interest in equal consecutive monthly installments until paid in full with the first payment commencing one month from the date of the promissory note. The mortgage shall encumber the land upon which the residential improvement or mobile home is, or will be, located and shall secure payment of the promissory note. Unless secured by a letter of credit as hereinafter provided, the promissory note shall indicate that it is secured by a mortgage. Additionally, the promissory note and the mortgage shall each provide for (i) acceleration upon failure to make any payment when due, and (ii) payment of costs of collection, including reasonable attorneys fees. Additional provisions may be required by resolution(s) of the Board of County Commissioners of St. Johns County or by the Clerk of Court. The Feepayer shall pay for the documentary stamps on the promissory note and mortgage. The Clerk of Court shall promptly record the mortgage in the official public records of St. Johns County at the Feepayer's expense.

Upon all payments being made in full, the mortgage shall be satisfied of record by the Clerk. Should the mortgage not be paid on a timely basis, the County may foreclose such mortgage, together with the costs of such foreclosure, including attorney's fees, in the manner authorized by law. The note and mortgage may be prepaid at any time without penalty.

In lieu of securing the above-described promissory note with a mortgage on the subject property, the Feepayer may elect to secure the note with an irrevocable letter of credit. The issuer of the

letter of credit and the form and content of the letter of credit shall be approved by the Clerk of the Circuit Court. The letter of credit shall be held by the Clerk until the promissory note is paid in full. The letter of credit shall, at a minimum, provide that if the note payments are not paid on a timely basis as set forth in the promissory note, the County may demand payment under the letter of credit of the entire unpaid balance of the promissory note and all sums due thereunder after 15 days written notice to the maker of the promissory note of the County's intention to do so. The promissory note shall indicate that it is secured by a letter of credit. When the promissory note is paid in full, the letter of credit shall be returned by the Clerk to the maker of the promissory note.

Upon payment of the initial portion of the Educational Facilities Impact Fee and compliance with the other provisions of this section C, the Educational Facilities Impact Fee will be deemed paid for the purposes of section 6 of the St. Johns County Educational Facilities Impact Fee Ordinance. The preceding sentence shall not relieve the maker of the promissory note or the mortgagor or the issuer of the letter of credit from their duties and obligations under the promissory note, the mortgage and the letter of credit.

The terms, conditions and/or provisions of this paragraph C may be supplemented, modified, added to, deleted and/or changed by subsequent resolution(s) of the Board.

Section D. Non Applicability To Impact Fees Paid Prior To The Effective Date of This Ordinance. No provision of this Article I shall apply to impact fees paid prior to the effective date of this ordinance.

Section E. Documentation. The Board of County Commissioners of St. Johns County, Florida may, by resolution(s) passed subsequent to the adoption of this ordinance, require or suggest documentation that must or may be provided by the Feepayer or his agent to justify the request for deferred payment of the Educational Facilities Impact Fee. Such resolution(s) may also provide or establish additional or alternate criteria that will qualify a Feepayer for deferred payment of such impact fee.

Section 2. Effective Date: This Ordinance shall take effect immediately upon receipt of official acknowledgment by the Office of the Department of State to the Clerk of the Board of County Commissioners that same has been filed.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, State of Florida this 14th day of July, 1992.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: J. J. B. [Signature]  
Its Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

By: Carl Bud Markel [Signature]  
Its Clerk

Effective date July 24, 1992

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**The St. Augustine Record**

PUBLISHED EVERY AFTERNOON MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING  
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,  
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared \_\_\_\_\_  
SHERRY L. RAUCH \_\_\_\_\_ who on oath says that she is  
ACCOUNTING CLERK \_\_\_\_\_ of the St. Augustine Record, a  
daily newspaper published at St. Augustine in St. Johns County, Florida: that  
the attached copy of advertisement, being a \_\_\_\_\_  
NOTICE OF INTENT \_\_\_\_\_  
\_\_\_\_\_ in the matter of \_\_\_\_\_  
ORDINANCE NO. 87-60 \_\_\_\_\_  
\_\_\_\_\_ in the \_\_\_\_\_ Court,  
was published in said newspaper in the issues of \_\_\_\_\_  
June 22, 1992 \_\_\_\_\_

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper has heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing the advertisement for publication in the said newspaper.

Sworn to and subscribed before me \_\_\_\_\_  
this \_\_\_\_\_ 22nd \_\_\_\_\_ day of \_\_\_\_\_ June \_\_\_\_\_  
A.D. 19 \_\_\_\_\_ 92

*Zoe Ann Johns*  
Notary Public  
SEAL 8/22/93

**COPY OF ADVERTISEMENT**

NOTICE OF INTENT TO CONSIDER ENACTMENT OF ORDINANCE NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, at its regular meeting on Tuesday, July 14, 1992 at 11:00 a.m. in the County Auditorium, County Administration Building, 4020 Lewis Speedway (County Road 16-A) and U.S. #1 North, St. Augustine, Florida, will hold a public hearing to consider the passage of the following ordinance:

ORDINANCE NO. 92- AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, AMENDING ST. JOHNS COUNTY ORDINANCE 87-60, AS PREVIOUSLY AMENDED, (THE ST. JOHNS COUNTY EDUCATIONAL FACILITIES IMPACT FEE ORDINANCE). THIS AMENDMENT MAKES FINDINGS, PROVIDES DEFINITIONS AND PROVIDES PROCEDURES WHEREBY UNDER CERTAIN CIRCUMSTANCES THE ST. JOHNS COUNTY EDUCATIONAL FACILITIES IMPACT FEE MAY BE PAID OVER TIME FOR OWNER OCCUPIED SINGLE UNIT RESIDENCES THAT WILL BE OCCUPIED BY VERY LOW OR LOW UNADJUSTED GROSS INCOME RESIDENTS; AND IT PROVIDES AN EFFECTIVE DATE.

The proposed Ordinance is on file in the office of the Clerk of the Circuit Court, St. Johns County, Florida, St. Johns County Administration Building, Lewis Speedway, and may be examined by parties interested prior to said public hearing.

All parties having any interest in said Ordinance will be afforded an opportunity to be heard at the public hearing.

If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the meeting or hearing, he will need a record of the proceedings, and for such purposes he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA  
Carl "Bud" Markel  
Its Clerk  
By Yvonne Carter,  
Deputy Clerk  
L445 June 22, 1992